

REMARKS

Consideration of this application in light of the present amendment is respectfully requested.

Claims 1-9, 11-20 and 24 have been rejected.

Claims 10, 21-23 were previously canceled.

Claim 6 has been canceled, without prejudice.

Claims 1 and 24 have been amended.

Claims 1-5, 7-9, 11-20 and 24 are pending in this application.

Claims 1-5, 7-8, 11, 16, 20 and 24 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schiff (US 6,298,242) in view of Thomas et al. (Int'l Publ. WO 01/31808, hereinafter "Thomas"). (According to item 2 of the Office Action this is a §103 rejection while item 3 of the Office Action recites that this is a §102 rejection. Applicant is proceeding with the assumption that this is actually a §103 rejection.) This rejection is respectfully traversed.

Independent claims 1 and 24 have been amended to incorporate the recitations of claim 6 (subsequently canceled) to reflect that a reduced transmit power level allows a reduced data rate between a mobile station and a base station. Further support for this can be found in the text on page 20 lines 4-13. The combination of recitations in amended claims 1 and 24 are not disclosed or suggested in any of the cited references.

Advantageously, applicant's invention of claim 1 provides an alternative solution for reducing interference caused by a communication unit in a network system by determining quality level. In practice, if a communication unit is causing interference or is operating in a high interference environment, any poor quality of a communication with that unit results in further system interference. Applicant's invention solves this problem by actually reducing the transmit power and data rate of such a communication unit to reduce system interference dependent upon that quality level measurement while also improve the quality level by using a reduced data rate. In addition, the reduced data rate allows for communication to be exchanged while reducing the interference caused. Specifically, this allows control and signaling information to be maintained during the reduced power mode.

The Examiner has not included claim 6 in this §103 rejection under Schiff and Thomas, but does reject claim 6 in a subsequent §103 rejection (below) citing Thomas and Damnjanovic (US Publ. 2003/0050084) and states that, while Thomas *does not* show a reduced transmit power allowing a reduced data rate, Damnjanovic (page 13 [para. 0116]) does show a reduced transmit power allowing a reduced data rate. Applicant respectfully disagrees in that para. 0116 clearly

refers to a reduction of "transmit power on the pilot and rate control channels" and does not refer to a reduced data rate. A reduced power on a rate control channel is completely different than a reduced data rate on a data channel. In particular, a rate control channel only provides control information to *control* a data rate on a different data channel. Damnjanovic is only referring to the *reduced power level* of this rate control information and not to a reduced data rate itself. Moreover, nowhere does Damnjanovic refer to data rate or reduced data rate. Therefore, Damnjanovic could not have envisioned a reduced transmit power allowing a reduced data rate.

Schiff also does not suggest or disclose a reduced data rate or a reduced transmit power allowing a reduced data rate.

Thomas, although an improvement in the art, does not describe reduced transmit power allowing a reduced data rate, as admitted by the Examiner in a further rejection (below) of claim 6 (now incorporated into the independent claims).

As a result, neither Schiff, Thomas, nor Damnjanovic, in combination or alone, teach any of the elements of: a) data rate, b) a reduced data rate, c) a reduced data rate in response to a reduced power level, and d) a reduced data rate in response to a reduced power level which is further in response to a quality level.

Accordingly, applicant respectfully submits that amended claims 1 and 24 are patentable and non-obvious over the cited art, and is therefore deemed allowable.

Regarding claim 7, applicant respectfully disagrees that Thomas teaches the step of exiting comprises transmitting power up power control data until the transmit power corresponds to a power level determined in response to the quality parameter, in that the cite on page 8 lines 3-12 only describes the raising and lowering of power level in response to power control commands, but nowhere describes changing a power level in response to a quality level.

Moreover, dependent claims 2-5, 7-8, 11, 16 and 20 are dependent on amended claim 1, hereby incorporated by reference, and are therefore deemed allowable as well for the same reasons.

Therefore, applicant respectfully requests that this rejection be withdrawn.

Claims 6, 9, 12-15 and 17-19 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Thomas in view of Damnjanovic. This rejection is respectfully traversed.

Claim 6 has been canceled.

Thomas and Damnjanovic have been distinguished over previously. Applicant's distinguishing remarks providing the benefits of applicant's invention and disadvantages of Thomas and Damnjanovic, to the extent applicable, are hereby incorporated by reference.

Regarding claim 9, applicant respectfully disagrees that Damnjanovic teaches a duration of a reduced power mode is less than a data re-transmission interval associated with the

communication between the communication unit and the base station, in that the cite on page 8 [para. 0084] only describes the reception of power level commands within a discontinuous mode, but nowhere describes a data re-transmission interval, and therefore could not have envisioned a reduced power mode less than a data re-transmission interval. In addition, even if one could describe a discontinuous mode as a reduced power mode (which it is not), this reference describes power control commands received within the discontinuous mode, which means that the duration of the discontinuous mode is *larger* than the power control transmissions. Therefore, Damnjanovic teaches away from a duration of a reduced power mode being *less* than a data re-transmission interval, even if Damnjanovic taught a reduced power mode or a data re-transmission interval, which it does not.

Regarding claim 15, applicant respectfully disagrees that Damnjanovic teaches determining that a duration of the reduced power mode exceeds a threshold and in response exiting the reduced power mode, in that the cite on page 13 [para. 0113] only describes comparing a signal strength (power level) to a threshold, but nowhere considers a *duration* of a reduced power mode, and therefore could not have envisioned comparing a *duration* of a reduced power mode to a threshold. Inasmuch as a duration threshold is not considered, Damnjanovic could not have further envisioned exiting a reduced power mode if the duration is exceeded.

Moreover, claims 6, 9, 12-15 and 17-19 are dependent on previously distinguished amended claim 1, hereby incorporated by reference, and are therefore deemed allowable as well for the same reasons.

Accordingly, it is respectfully submitted that this rejection has been overcome.

The other references of record have been reviewed and applicant's invention is deemed patentably distinct and nonobvious over each taken alone or in combination.

For the foregoing reasons, applicants respectfully request that the above rejections be withdrawn.

Inasmuch as this amendment distinguishes all of the applicants' claims over the prior art references, for the many reasons indicated above, passing of this case is now believed to be in order. A Notice of Allowance is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.


In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicants' attorney at the number indicated below so

that the prosecution of the present case may be advanced by the clarification of any continuing rejection or through an Examiner's amendment.

Authorization is hereby given to charge any fees necessitated by actions taken herein to Deposit Account 50-2117.

Respectfully submitted,
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